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7 **BEFORE THE**
PHYSICAL THERAPY BOARD OF CALIFORNIA
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the
First Amended Accusation Against:

11 STEPHEN KOHLEY
12 1415 Rexford Drive #302
Los Angeles, California 90035

13 Physical Therapist Assistant
14 License Number AT 6368,

Respondent.

Case No. 1D 2005 64258

OAH No. 2006 01 0046

FIRST AMENDED ACCUSATION

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16 Complainant alleges:

17 **PARTIES**

18 1. Steven K. Hartzell (Complainant) brings this First Amended Accusation
19 solely in his official capacity as the Executive Officer of the Physical Therapy Board of
20 California (Board), Department of Consumer Affairs.

21 2. On or about July 18, 2002, the Board issued Physical Therapist Assistant
22 License Number AT 6368 to Stephen Kohley (Respondent). This license expired on August 31,
23 2005, and has not been renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board under the authority of the
26 following laws and regulations. All section references are to the Business and Professions Code
27 (Code) unless otherwise indicated.

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“The board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.”

“The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any license, certificate, or approval issued under this chapter for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

“(d) Conviction of a crime which substantially relates to the qualifications, functions, or duties of a physical therapist or physical therapy assistant. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction. . . .”

“A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense which substantially relates to the qualifications, functions, or duties of a physical therapist is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.”

7. California Code of Regulations, Title 16, section 1399.20, states:

1 “For the purposes of denial, suspension or revocation of a license,
2 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or
3 act shall be considered to be substantially related to the qualifications, functions
4 or duties of a person holding a license under the Physical Therapy Practice Act if
5 to a substantial degree it evidences present or potential unfitness of a person to
6 perform the functions authorized by the license or approval in a manner consistent
7 with the public health, safety or welfare. Such crimes or acts shall include but not
8 be limited to the following:

9 “(a) Violating or attempting to violate, directly or indirectly, or
10 assisting in or abetting the violation of, or conspiring to violate any provision or
11 term of the Physical Therapy Practice Act. . . .”

12 8. Section 118 of the Code states in pertinent part:

13 “ . . .

14 “(b) The suspension, expiration, or forfeiture by operation of law
15 of a license issued by a board in the department, or its suspension, forfeiture, or
16 cancellation by order of the board or by order of a court of law, or its surrender
17 without the written consent of the board, shall not, during any period in which it
18 may be renewed, restored, reissued, or reinstated, deprive the board of its
19 authority to institute or continue a disciplinary proceeding against the licensee
20 upon any ground provided by law or to enter an order suspending or revoking the
21 license or otherwise taking disciplinary action against the licensee on any such
22 ground.

23 “(c) As used in this section, ‘board’ includes an individual who is
24 authorized by any provision of this code to issue, suspend, or revoke a license, and
25 ‘license’ includes ‘certificate,’ ‘registration,’ and ‘permit.’”

26 9. Section 2661.5, subdivision (a) of the Code states:

27 “‘In any order issued in resolution of a disciplinary proceeding
28 before the board, the board may request the administrative law judge to direct any

1 licensee found guilty of unprofessional conduct to pay to the board a sum not to
2 exceed the actual and reasonable costs of the investigation and prosecution of the
3 case.”

4 **CAUSE FOR DISCIPLINE**
5 **(Conviction of a Crime)**

6 10. Respondent is subject to disciplinary action under Code sections 2660,
7 subdivision (d), and 2661, and California Code of Regulations, Title 16, section 1399.20,
8 subdivision (a), in that he was convicted of a crime substantially related to the qualifications,
9 functions, or duties of a physical therapist assistant. The circumstances are that on or about June
10 20, 2005, Respondent was convicted upon his of plea of *nolo contendere* to disorderly conduct in
11 that certain action denominated *People v. Stephen Richard Kohley*, Los Angeles Superior Court
12 Case Number 5CR08769. He was placed on probation for two years. The court ordered him to
13 pay fines and assessments of One Thousand Six Hundred Fifteen dollars (\$1,615.00) or serve 15
14 days in county jail, or in lieu thereof, perform 15 days of Caltrans service.

15 **DISCIPLINE CONSIDERATIONS**

16 11. To determine the degree of discipline, if any, to be imposed on respondent,
17 Complainant alleges that on or about April 5, 2001, in a prior criminal proceeding entitled
18 *People v. Stephen Richard Kohley*, in San Bernardino County Superior Court, Case Number
19 TRE32713, respondent was convicted of driving under the influence of alcohol and driving with
20 .08% or higher blood alcohol level, violations of Vehicle Code section 23152, subdivisions (a)
21 and (b), respectively. Respondent was placed on probation for three years upon various terms
22 and conditions. On or about July 9, 2002, the Physical Therapy Board issued a warning letter to
23 respondent regarding this conviction. The record of this criminal proceeding is incorporated as if
24 fully set forth.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Physical Therapy Board issue a decision:

4 1. Revoking or suspending Physical Therapist Assistant License Number
5 AT 6368, issued to Stephen Kohley;

6 2. Ordering him to pay the Board the reasonable costs of the investigation
7 and enforcement of this case, pursuant to Business and Professions Code section 2661.5;

8 3. Taking such other and further action as deemed necessary and proper.

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10 DATED: August 31, 2007.

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13 Original Signed By:
14 STEVEN K. HARTZELL
15 Executive Officer
16 Physical Therapy Board of California
17 Department of Consumer Affairs
18 State of California
19 Complainant
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